

REMARKS/ARGUMENTS

Claims 1-20 are pending. The Specification has been amended to correct the definition on page 10 and to incorporate the subject matter of Example 8 from International Publication No. 03/018564 on page 12.

The claims have been amended for clarity and consistency with U.S. practice and Claim 6 has been revised to exclude the compound of Kawaguchi et al. New Claims 7-12 find support in Claim 6 and Claims 13- 15 and Claims 16-20 in Claim 5 and in the paragraph bridging pages 14-15 of the Specification. Accordingly, the Applicants do not believe that any new matter has been added.

The Applicants thank Examiner Bernhardt for the courteous and helpful discussion of March 6, 2006. It was suggested that the material from Example 8 of the International Publication be incorporated onto page 13 of the Specification. Use of a proviso as one means of avoiding the prior art rejection of Claim 6 was discussed.

Objection—Specification

The Specification was objected to as incorporating essential subject matter by reference to a foreign document. The concern is that Compound 6, which is depicted on page 9 of the specification, is disclosed as being available by the process described in Example 8 of International Publication No. 03/018564. The Applicants submit that one with skill in the art would be enabled to make this compound based on what is already known in the prior art, e.g., what is described by 03/018564. Nevertheless, the Specification has been amended to describe the production of Compound 6.

Rejection—35 U.S.C. §112, second paragraph

Claims 2-6 were rejected under 35 U.S.C. 112, second paragraph, as being indefinite. These rejections are moot in view of the amendments above.

Rejection—35 U.S.C. §112, first paragraph

Claims 1-5 were rejected under 35 U.S.C. 112, first paragraph, as lacking adequate enablement. This rejection is moot in view of the amendments above, including the incorporation of Example 8 from 03/018564 onto page 13 of the specification.

Rejection—35 U.S.C. §102

Claim 6 was rejected under 35 U.S.C.102(b) as being anticipated by Kawaguchi et al., DN 123:222345 (Abstract). This rejection is moot in view of the amendment of Claim 6 to specify that when R¹ represents a hydrogen atom, then R² is not substituted C₂-C₄ alkyl.

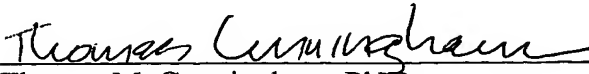
CONCLUSION

In view of the above amendments and remarks, the Applicants respectfully submit that this application is now in condition for allowance. Early notification to that effect is earnestly solicited.

Respectfully submitted,

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DECLARATION

I, Jun HAYASHI of c/o The Patent Corporate Body ARUGA PATENT OFFICE, 3-6, Nihonbashiningyocho 1-chome, Chuo-ku, Tokyo 103-0013 Japan do solemnly and sincerely declare that I well understand both Japanese and English languages and that I believe the attached English version is a true and complete translation of the example 8 of WO03/018564.

April 3, 2006


Jun HAYASHI

Example 8

Production of

1-[2-(7-trifluoromethylbenzoxazol-2-yl-thio)ethyl]piperazine ditrifluoroacetate

tert-Butyl 4-[2-(7-trifluoromethylbenzoxazol-2-yl-thio)ethyl]-1-piperazinecarboxylate (37.92g, 87.9mmol) was dissolved in trifluoroacetic acid (200mL) under ice-cooling and stirred at the same temperature for 15 minutes. Ether was added to the reaction solution under ice-cooling and the separated crystals were filtered, washed with ether and dried under a reduced pressure to obtain 47.46g (yield: 97%) of the target compound as light yellow powdery crystals.

Melting point: 155-156°C

IR(KBr)cm⁻¹: 3026, 2421, 1683, 1511, 1596

¹H-NMR (d₆-DMSO)δ: 2.75-2.90 (4H, m), 2.91-3.04 (2H, m), 3.05-3.22 (4H, m), 3.56 (2H, t, J = 6.8Hz), 7.54 (1H, t, J = 8.0Hz), 7.67 (1H, d, J = 8.0Hz), 7.96 (1H, d, J = 8.0Hz), 8.70 (1H, br s).

Elementary analysis as C₁₈H₁₈F₉N₃O₅S

Calculated: C, 38.65; H, 3.24; N, 7.51

Found: C, 38.60; H, 3.25; N, 7.51